



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3893

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

See Index

Amends the Alcoholism and Other Drug Abuse and Dependency Act. Provides that a person 18 years of age or older may be subject to involuntary alcohol or substance abuse treatment by court order. Provides that no person shall be ordered to undergo involuntary alcohol or substance abuse treatment unless that person (i) suffers from alcohol or other substance abuse; (ii) presents an imminent threat of danger to self, family, or others as a result of alcohol or other substance abuse, or there exists a substantial likelihood of such a threat in the near future; and (iii) can reasonably benefit from treatment. Contains provisions concerning the rights of persons subject to involuntary treatment; forms; jurisdiction; petition requirements; court and medical examinations; emergency hospitalization; the consequences of failing to attend examinations; summons; hospitals and treatment facilities; and defined terms.

LRB099 06941 KTG 27023 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by adding the heading of Article 26
6 and by adding Sections 26-1, 26-5, 26-10, 26-15, 26-20, 26-25,
7 26-30, 26-45, 26-50, 26-55, 26-60, 26-65, 26-70, 26-75, 26-80,
8 26-85, and 26-90 as follows:

9 (20 ILCS 301/Art. 26 heading new)

10 ARTICLE 26. INVOLUNTARY TREATMENT FOR ALCOHOL OR OTHER
11 SUBSTANCE ABUSE

12 (20 ILCS 301/26-1 new)

13 Sec. 26-1. Definitions. As used in this Article:

14 "Alcohol or other substance abuse" means a dysfunctional
15 use of alcohol or other drugs or both, characterized by one or
16 more of the following patterns of use:

17 (1) The continued use despite knowledge of having a
18 persistent or recurrent social, legal, occupational,
19 psychological, or physical problem that is caused or
20 exacerbated by use of alcohol or other drugs or both.

21 (2) Use in situations which are potentially physically
22 hazardous.

1 (3) Loss of control over the use of alcohol or other
2 drugs or both.

3 (4) Use of alcohol or other drugs or both is
4 accompanied by symptoms of physiological dependence,
5 including pronounced withdrawal syndrome and tolerance of
6 body tissues to alcohol or other drugs or both.

7 "Mental health facility" means any licensed private
8 hospital, institution, or facility or section thereof, and any
9 facility, or section thereof, operated by the State or a
10 political subdivision thereof for the treatment of persons with
11 mental illness and includes all hospitals, institutions,
12 clinics, evaluation facilities, and mental health centers
13 which provide treatment for such persons.

14 "Person" or "respondent" means a person 18 years of age or
15 older for whom a court order for involuntary treatment for
16 alcohol or substance abuse is sought.

17 "Narcotic treatment program" means a substance abuse
18 program using approved controlled substances and offering a
19 range of treatment procedures and services for the
20 rehabilitation of persons dependent on opium, morphine,
21 heroin, or any derivative or synthetic drug of that group.

22 "Treatment" means inpatient services and programs for the
23 care and rehabilitation of intoxicated persons and persons
24 suffering from alcohol or other drug abuse. "Treatment"
25 includes those services provided by the Department and services
26 provided by a narcotic treatment program.

1 (20 ILCS 301/26-5 new)

2 Sec. 26-5. Rights of persons subject to involuntary
3 treatment. Involuntary treatment ordered for a person
4 suffering from alcohol or other substance abuse shall follow
5 the procedures set forth in this Article. Except as otherwise
6 provided in this Article, all rights guaranteed to persons
7 subject to involuntary admission on an inpatient basis under
8 Articles I, II, VI, VII, VIII, and XI of Chapter III of the
9 Mental Health and Developmental Disabilities Code shall be
10 guaranteed to a person ordered to undergo involuntary treatment
11 for alcohol or other substance abuse.

12 (20 ILCS 301/26-10 new)

13 Sec. 26-10. Forms. The Department shall prescribe all forms
14 necessary for proceedings under this Article, and all forms
15 used in such proceedings shall comply substantially with the
16 forms so prescribed. The Department shall publish all forms in
17 electronic format and post the forms to its website.

18 (20 ILCS 301/26-15 new)

19 Sec. 26-15. Jurisdiction. The circuit court has
20 jurisdiction under this Article over persons subject to
21 involuntary treatment for alcohol or substance abuse.

22 Every petition, certificate, and proof of service required
23 by this Article shall be executed under penalty of perjury as

1 though under oath or affirmation, but no acknowledgement is
2 required.

3 (20 ILCS 301/26-20 new)

4 Sec. 26-20. Involuntary treatment. A person 18 years of age
5 or older may be subject to involuntary alcohol or substance
6 abuse treatment by court order pursuant to this Article. No
7 person shall be ordered to undergo involuntary alcohol or
8 substance abuse treatment unless that person:

9 (1) suffers from alcohol or other substance abuse;

10 (2) presents an imminent threat of danger to self,
11 family, or others as a result of alcohol or other substance
12 abuse, or there exists a substantial likelihood of such a
13 threat in the near future; and

14 (3) can reasonably benefit from treatment.

15 (20 ILCS 301/26-25 new)

16 Sec. 26-25. Petition for involuntary treatment.
17 Proceedings for 60 days or 360 days of involuntary treatment
18 for a person suffering from alcohol or other substance abuse
19 shall be initiated by the filing of a petition. The petition
20 and all subsequent court documents shall be entitled: "In the
21 interest of (name of respondent)." Any spouse, relative, or
22 legal guardian 18 years of age or older may execute a petition
23 asserting that the person is subject to involuntary treatment
24 for alcohol or other substance abuse. The petition shall be

1 prepared as required in Section 26-30 and shall be filed with
2 the circuit court in the county where the person resides or is
3 present.

4 (20 ILCS 301/26-30 new)

5 Sec. 26-30. Petition requirements.

6 A petition asserting that the respondent is subject to
7 involuntary treatment for alcohol or other drug abuse shall
8 include all of the following:

9 (1) A detailed statement of the reason for the
10 assertion that the respondent is subject to involuntary
11 treatment for alcohol or substance abuse, including the
12 signs and symptoms of alcohol or substance abuse and a
13 description of any acts, threats, or other behavior or
14 pattern of behavior supporting the assertion and the time
15 and place of their occurrence.

16 (2) The name and address of the spouse, relative, or
17 legal guardian, if any, or if none, the name and address of
18 any known friend of the respondent whom the petitioner has
19 reason to believe may know or have any of the other names
20 and addresses. If the petitioner is unable to supply any
21 such names and addresses, the petitioner shall state that
22 diligent inquiry was made to learn this information and
23 specify the steps taken.

24 (3) The petitioner's relationship to the respondent
25 and a statement as to whether the petitioner has a legal or

1 financial interest in the matter or is involved in
2 litigation with the respondent. If the petitioner has a
3 legal or financial interest in the matter or is involved in
4 litigation with the respondent, a statement of why the
5 petitioner believes it would not be practicable or possible
6 for someone else to be the petitioner.

7 (4) The names, addresses, and phone numbers of the
8 witnesses by which the facts asserted may be proved.

9 Any petition filed pursuant to this Section shall be
10 accompanied by a guarantee, signed by the petitioner,
11 obligating that person to pay all costs for treatment of the
12 respondent for alcohol or other substance abuse that is ordered
13 by the court.

14 Knowingly making a material false statement in the petition
15 is a Class A misdemeanor.

16 (20 ILCS 301/26-45 new)

17 Sec. 26-45. Court and medical examinations.

18 (a) Upon receipt of the petition, the court shall examine
19 the petitioner under oath as to the contents of the petition.

20 (b) If, after reviewing the allegations contained in the
21 petition and examining the petitioner under oath, it appears to
22 the court that there is probable cause to believe the
23 respondent is subject to involuntary treatment for alcohol or
24 substance abuse on an inpatient basis, then the court shall:

25 (1) set a date for a hearing within 14 days to

1 determine if there is probable cause to believe the
2 respondent should be subject to involuntary treatment for
3 alcohol or other substance abuse;

4 (2) notify the respondent, the respondent's legal
5 guardian, if any, the respondent's attorney, and the
6 respondent's spouse or relative concerning the allegations
7 and contents of the petition and the date and purpose of
8 the hearing; and

9 (3) cause the respondent to be examined no later than
10 24 hours before the hearing date by a physician and by a
11 clinical psychologist or a psychiatrist; the examining
12 physician and the examining clinical psychologist or
13 psychiatrist must determine whether the respondent is
14 subject to involuntary treatment for alcohol or other
15 substance abuse and shall submit a certificate of all
16 findings to the court within 24 hours of the examination.

17 (c) If, upon completion of the hearing, the court finds the
18 respondent is subject to involuntary treatment for alcohol or
19 other substance abuse, then the court shall order such
20 treatment for a period not to exceed 60 consecutive days from
21 the date of the court order or a period not to exceed 360
22 consecutive days from the date of the court order, whatever was
23 the period of time that was requested in the petition or
24 otherwise agreed to at the hearing. Failure of a respondent to
25 undergo treatment ordered pursuant to this subsection may place
26 the respondent in contempt of court.

1 (d) If, at any time after the petition is filed, the court
2 finds that there is no probable cause to continue treatment or
3 if the petitioner withdraws the petition, then the proceedings
4 against the respondent shall be dismissed.

5 (20 ILCS 301/26-50 new)

6 Sec. 26-50. Emergency hospitalization.

7 (a) Following an examination by a physician and by a
8 clinical psychologist or a psychiatrist, and upon
9 certification by those examiners that the respondent meets the
10 criteria specified in Section 26-20, the court may order the
11 respondent hospitalized for a period not to exceed 72 hours if
12 the court finds, by clear and convincing evidence, that the
13 respondent presents an imminent threat of danger to self,
14 family, or others as a result of alcohol or other substance
15 abuse.

16 (b) Any person who has been admitted to a hospital pursuant
17 to subsection (a) shall be released from the hospital within 72
18 hours of admittance.

19 (c) No respondent ordered hospitalized under this Section
20 shall be held in jail pending transportation to the hospital or
21 evaluation unless the court has previously found the respondent
22 to be in contempt of court for either failure to undergo
23 treatment or failure to appear at the evaluation ordered
24 pursuant to Section 26-45.

1 (20 ILCS 301/26-55 new)

2 Sec. 26-55. Failure to attend examinations; summons. When
3 the court is authorized to issue an order that the respondent
4 be transported to a hospital the court may issue a summons. If
5 the respondent fails to attend an examination scheduled before
6 the hearing provided for in Section 26-45 then the court shall
7 issue a summons. The summons shall be directed to the
8 respondent and shall command the respondent to appear at a time
9 and place therein specified. If a respondent who has been
10 summoned fails to appear at the hospital or the examination,
11 then the court may order the sheriff or other peace officer to
12 transport the respondent to a hospital or treatment facility as
13 designated by the Department. The sheriff or other peace
14 officer may, upon agreement of an individual authorized by the
15 peace officer, authorize the Department, a private agency on
16 contract with the Department, or an ambulance service provider
17 designated by the Department to transport the respondent to the
18 hospital or treatment facility. The transportation costs of the
19 sheriff, other peace officer, ambulance service, or other
20 private agency on contract with the Department shall be
21 included in the costs of treatment for alcohol or other
22 substance abuse to be paid by the petitioner.

23 (20 ILCS 301/26-60 new)

24 Sec. 26-60. Hospitals and treatment facilities. The
25 Department shall, on at least an annual basis, submit the

1 following lists to the various circuit courts:

2 (1) A list of hospitals and treatment facilities in the
3 State which are able and willing to take respondents
4 ordered to undergo 72 hours of treatment and observation
5 pursuant to Section 26-50; and

6 (2) A list of hospitals and treatment providers in the
7 State who are able and willing to provide treatment for
8 alcohol or other substance abuse ordered pursuant to
9 Section 26-45 of this Act.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 301/Art. 26

4 heading new

5 20 ILCS 301/26-1 new

6 20 ILCS 301/26-5 new

7 20 ILCS 301/26-10 new

8 20 ILCS 301/26-15 new

9 20 ILCS 301/26-20 new

10 20 ILCS 301/26-25 new

11 20 ILCS 301/26-30 new

12 20 ILCS 301/26-45 new

13 20 ILCS 301/26-50 new

14 20 ILCS 301/26-55 new

15 20 ILCS 301/26-60 new